

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7751

BILL NUMBER: HB 1740

DATE PREPARED: Jan 6, 2001

BILL AMENDED:

SUBJECT: IURC Enforcement Authority.

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FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill allows the Indiana Utility Regulatory Commission (IURC) to impose the following penalties on a telecommunications utility if the utility violates Indiana utility law or fails to comply with an order of the IURC:

- (1) A civil penalty of not more than \$25,000 per violation.
- (2) A cease and desist order.
- (3) An order that the utility remedy the violation.
- (4) Revocation or modification of the utility's certificate of territorial authority, certificate of public convenience and necessity, or other permit.

The bill authorizes the IURC to direct a telecommunications utility to provide service within 24 hours in certain situations. It requires the IURC to adopt rules granting certain rights to local exchange telephone companies.

The bill requires the IURC to impose a penalty of up to three times the maximum amount of allowable penalties if a telecommunications utility violates a: (1) standard of service; or (2) rule granting rights to local exchange telephone companies.

The bill authorizes the Attorney General to bring an action to enforce an order of the IURC to impose a penalty. The bill provides for the deposit of any penalties collected in the commission Public Utility Fund account.

The bill provides that the IURC may impose only the penalties allowed under current law for violations of slamming and cramming laws.

Effective Date: July 1, 2001.

Explanation of State Expenditures: This proposal extends the IURC's enforcement power over regulated telecommunications utilities. The proposal would give the IURC the ability to: impose civil penalties, issue cease and desist orders, and modify permits issued by the Commission. Under current law, the IURC can only revoke a certificate or permit. The bill also allows the IURC to fine telecommunication providers. While this proposal would make more options available to the IURC in the event of a violation or act of noncompliance, it should not require any additional procedures or expenditures for the Commission.

This bill would also require the IURC to adopt rules according certain rights to local exchange telephone companies. Any costs associated with developing these rules are expected to be absorbed using the Commission's existing staff and resources.

The proposal also authorizes the Attorney General to bring an action in a court that has jurisdiction over the noncompliant utility. If more legal actions are sought, the administrative burden of the Attorney General's office may increase.

Explanation of State Revenues: Under this bill, the IURC could impose a civil penalty of up to \$25,000 for each violation. If the IURC or the Office of the Utility Consumer Counselor (OUCC) directs a telecommunications utility to provide service to avoid personal injury or alleviate an emergency situation, each day the utility does not comply with the order would be considered a separate violation subject to a civil penalty.

The bill also allows the IURC to fine a telecommunications providers up to \$75,000 if they are found in violation of the local telephone exchange rules established in this bill.

Penalties would be deposited into the Public Utility Fund, which is used for the operation of the IURC and the OUCC. It is not known in how many instances the IURC would impose monetary penalties

At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a \$250,000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees. In FY 2000, public utility fines and fees generated \$8,053,986.

The penalty provisions authorized by this bill would not change the civil penalties allowed for violations of laws related to slamming and cramming by telecommunication providers. Civil penalties assessed on these violations are deposited in the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Office of the Attorney General.

Local Agencies Affected:

Information Sources: Mike Leppert, Executive Director of External Affairs, IURC, (317) 232-2714.